FILED
17 JUN -1 PM 4:24
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY ______ DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

NICHOLAS PALOMO,
Plaintiff,

-vs- **Case No. A-16-CA-628-SS**

PORTFOLIO RECOVERY ASSOCIATES, LLC and WESTERN SURETY COMPANY,
Defendants.

ORDER

BE IT REMEMBERED on this day the Court reviewed the file in the above-styled cause, and specifically "Defendant Portfolio Recovery Associates, LLC and Western Surety Company's Motion for Summary Judgment" [#29 filed April 24, 2017] and "Plaintiff's Opposition to Defendants' Motion for Summary Judgment" [#33 filed May 29, 2017] and discovery in this case having been completed on March 22, 2017, the Court enters the following:

IT IS ORDERED that the Motion for Summary Judgment filed on behalf of Portfolio Recovery Associates, LLC and Western Surety Company is GRANTED.

This is one of many lawsuits plaguing the federal courts with regard to claims under the Fair Debt Collection Practices Act, the Texas Debt Collections Act, and other similar statutes involving low damages or minimum loss that generally has been corrected by the time of the lawsuit filing or by the time there is an answer filed in the lawsuit. However, this case is a sterling example of an irresponsible lawsuit being filed. The filing date is May 27, 2016 and even after an extension of time to respond to the motion for summary judgment, the plaintiff Palomo, through his lawyers, do not contest any factual allegation raised. It is apparent that Nicholas Palomo and his counsel failed to participate in discovery as they failed to answer requests for admissions, thereby admitting that Mr. Palomo was not the author of the letter of claims attached to Exhibit A of the Original Complaint; admitted suffering no actual damages as the result of any actual omission of the defendants; admits that he suffered no actual loss due to the allegations against the defendants; has no evidence of suffering any reduction in credit score due to the alleged actions of the defendants; that he has no documented evidence suffering a reduction in the credit score due to the alleged action of the defendants; and, finally, admitting the amount recorded as owed on the debt to the consumer reporting agencies is accurate. If this wasn't enough evidence for summary judgment, the sworn testimony of Nicholas Poloma attached to the defendants' motion for summary judgment establishes that Mr. Poloma had really nothing to do with the filing of the lawsuit. Even the demand letter with his name was signed by his lawyers. He testifies under oath that he admits owing a debt on a credit card but has no knowledge of the amount owed. He can't recall what the debt was but he thinks it was over the $582 alleged in the complaint. Mr. Poloma testified he never refused to pay the debt and never investigated to verify the amount in concern in this case was correct or not. He has no knowledge that his credit score was harmed in any way and he suffered any damages as a result of any reporting to the company dealing in credit ratings. He has not been advised of any offer of judgment made in the case by the defendants. He further testified he had never been contacted in person, by letter, or telephone call by the defendants and has no knowledge why Western Surety Company was even sued. Finally, and importantly, he testified that he has never refused to pay the debt and seeks no damages. The response of the plaintiff is merely a recital of different statutes and contains no factual information and specifically no factual information establishing any element of the plaintiff's case against the defendants. The defendants are entitled to judgment as a matter of law on the record before the Court.

SIGNED this the 31st day of May 2017.

Sam Sparks
UNITED STATES DISTRICT JUDGE